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| SERIAL NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
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| 06/769,746    | 08/27/85    | ATSUNEI               | K XI                |

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| EXAMINER  |              |
|-----------|--------------|
| BENSON, R |              |
| ART UNIT  | PAPER NUMBER |
| 1.2B      | 7            |

DATE MAILED: 11/07/86

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☐ This application has been examined ☒ Responsive to communication filed on 9/12/86 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.       | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                  |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-149              | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTD-1474 | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

- ☒ Claims 1-19 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
- ☒ Claim 17 has been cancelled.
- ☐ Claims \_\_\_\_\_ are allowed.
- ☒ Claims 1-4, 6-13, 15, 16, 18 and 19 are rejected.
- ☒ Claims 5 and 14 are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
- ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
- ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
- ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

Claims 1, 8, 9 and 19 are rejected under 35 U.S.C. 112, first and second paragraphs, as the claimed invention is not described in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the same, and/or for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following reasons apply:

1. In claim 1, line 7, applicants have left in the words "A is", so that the claim will read", A is A is...". (paragraph 2)

2. In claim 1, line 5 of page 2, the phrase "bearing no or a further lower alkyl substituent" is awkward language. Also the claim is indefinite because no counterion for the thiazolio moiety is given. The examiner suggests the following wording: " or a 3-lower-alkylthiazolio group, optionally substituted with one lower alkyl group, with a halide counterion,". (paragraph 2)

3. Claim 19 is indefinite because a) in line 2, the substituted vinyl group should be in the 3 position not the 2 position and b) in line 3, "syn" is misspelled. (paragraph 2).

4. Claim 9, in line 6, still says "and its trifluoroacetate" and thus is indefinite because it is not known if this means the salt or ester. (paragraph 2)

Art Unit 128

The declaration under 37 CFR 1.132 filed October 12, 1986 is insufficient to overcome the rejection of claims 1-4, 6-13, 15, 16, 18 and 19 based upon Farge as set forth in the last Office action because the declaration is not probative, in that applicants have not compared against the closest compounds of Farge, those of examples 2, 40 and 49.

The declaration under 37 CFR 1.132 filed October 12, 1986 is insufficient to overcome the rejection of claims 1, 2, 3, 8, 9, 10 and 18 based upon Beattie in view of Berger, Farge, Furlenmeir and further in view of Dunn as set forth in the last Office action because applicants have not compared against Beattie's compounds of examples 6, 7 and 16.

The declaration under 37 CFR 1.132 filed October 12, 1986 is sufficient to overcome the rejection of claims 4, 11-16 and 19 based upon Beattie in view of Berger, Farge, Furlenmeir and further in view of Dunn.

Claims 5 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a).

Applicant is reminded of the extension of time policy set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

Serial No. 769746

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Art Unit 128

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to Robert Benson at telephone number 703-557-1751.

RB

RBenson:ce

11-4-86

S.M.

SIDNEY MARANTZ  
PRIMARY EXAMINER  
ART UNIT 128